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No. 87-505

In the Supreme Court

OF THE

United States

OCTOBER TERM 1988

CHICK KAM CHOO, et al.,
Petitioners,

VS.

EXXON CORPORATION, et al.,
Respondents.

On Appeal from the United States Court of Appeal for the Fifth Circuit

BRIEF OF THE MARITIME LAW ASSOCIATION OF THE UNITED STATES AS AMICUS CURIAE, IN SUPPORT OF AFFIRMANCE.

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TABLE OF CONTENTS

	Page
INTEREST OF AMICUS CURIAE	1
SUMMARY OF ARGUMENT	4
ARGUMENT	5
I	
THE DECISION SHOULD BE BASED ON THE PRINCIPLE OF UNIFORMITY OF MARITIME LAW	5
A. The Founding Fathers Agreed Maritime Law, Controlled by the Federal Government and Supreme Court, Should be Uniform in all Courts in the United States	5
B. The Intent to Maintain National Uniformity was Confirmed in the Constitution	7
C. Although Congress has Delegated a Portion of Admiralty Law Jurisdiction to the State Courts, They are Required to Apply Federal Admiralty Law	8
D. Calling the Dismissal "Procedural" Does not Resolve the Case	9
II	
UNIFORMITY REQUIRES THAT IN MARITIME CASES SOME FEDERAL DOOR-CLOSING MEASURES BIND THE STATE COURTS LIKE THE ONE INVOLVED HERE	11
A. Maritime Remedies	12
B. Foreign Forum Clauses	12

	Page
C. Arbitration	13
D. Sovereign Immunity	13
E. Acts of State Doctrine	14
F. Insufficient Contacts With the Forum	14
G. Forum Non Conveniens	14
III	
CONFLICT AND UNCERTAINTY CONCERNING CONDITIONAL DISMISSAL ON THE GROUND OF FORUM NON CONVENIENS IN MARITIME CASES IN UNITED STATES COURTS SHOULD BE RESOLVED	16
IV	
A FEDERAL COURT IS AUTHORIZED TO ENJOIN STATE COURT LITIGATION OF A MARITIME CAUSE OF ACTION CONDITIONALLY DISMISSED IN THE FEDERAL COURT ON THE GROUND OF FORUM NON CONVENIENS	16
CONCLUSION	18

TABLE OF AUTHORITIES

Cases

	Page
Air Crash Disaster Near New Orleans, La., In re, 821 F.2d 1147, 1987 A.M.C. 2735, (5th Cir. 1987)	10
Air Logistics, Inc. v. Tallentire, No. 85-202, 106 S.Ct. 2485 (1986)	4
Allen v. McCurry, 449 U.S. 90 (1980)	17
American Surety Co. v. Baldwin, 287 U.S. 156 (1932)	11
Asahi Metal Indus. Co. v. Superior Court, 107 S.Ct. 1026 (1987)	14
Askew v. American Waterways Operators, 411 U.S. 325 (1973)	4
Baldwin v. Iowa State Traveling Men's Assn., 283 U.S. 522 (1931)	11
Banco Nacional de Cuba v. Sabbatino, 376 U.S. 398 (1964)	14
Bremen v. Zapata Off-Shore Co., 407 U.S. 1 (1972)	12
Canada Melting Co. v. Peterson, 285 U.S. 413 (1932)	14
Dames & Moore v. Regan, 453 U.S. 654 (1981)	13
Garrett v. Moore — McCormack Co., 317 U.S. 239 (1942)	9
Gillespie v. United States Steel Corp., 379 U.S. 148 (1964)	12
Guaranty Trust Co. v. York, 326 U.S. 99 (1945)	9, 10
Guidry v. Durkin, 834 F.2d 1465 (9th Cir. 1987)	13
Gulf Oil Corp. v. Gilbert, 330 U.S. 501 (1947)	14, 15
Hanna v. Plumer, 380 U.S. 460 (1965)	10
International Shoe Co. v. Washington, 326 U.S. 310 (1945)	11

TABLE OF AUTHORITIES

CASES

	Page
Kassapas v. Arkon Shipping Agency, 485 So.2d 585 (La. Ct. App. 5th Civ.) Writ denied, 488 So.2d 203 (La. 1986)	16
Knickerbocker Ice Co. v. Stewart, 253 U.S. 149 (1920)	8
Lindgren v. United States, 281 U.S. 38 (1930)	12, 15
Missouri v. Mayfield, 340 U.S. 1 (1950)	14
Mitsubishi Motors Corp. v. Soler Chrysler Plymouth, Inc., 473 U.S. 614 (1985)	13
Mizokami Bros. v. Mobay Chemical Corp., 660 F.2d 712 (8th Cir. 1981)	17
Panama Railroad Co. v. Johnson, 264 U.S. 375 (1924)	8, 9
Parsons v. Chesapeake & Ohio R.R. Co., 375 U.S. 71 (1963)	14, 17
Pastewka v. Texaco, Inc., 565 F.2d 851, 1979 A.M.C. 190 (3d Cir. 1977)	10, 17
Piper Aircraft Co. v. Reyno, 454 U.S. 235 (1981)	15
Ray v. Atlantic Richfield Co., 435 U.S. 151 (1978)	4
Romero v. International Terminal Operating Co., 358 U.S. 354 (1959)	6
Sherrill v. Brinkerhoff Maritime Drilling, 615 F.Supp. 1021	16
Southland v. Keating, 465 U.S. 1 (1984)	13, 15
Testa v. Katt, 330 U.S. 386 (1947)	15
The Hine v. Trevor, 71 U.S. (4 Wall.) 555 (1967)	12, 15
The Lottawanna, 88 U.S. 558 (1987)	8

TABLE OF AUTHORITIES

CASES

	Page
The Moses Taylor, 71 U.S. (4 Wall.) 411 (1867)	12, 15
The Schooner Exchange v. McFaddon, 11 U.S. (7 Cranch.) 116 (1812)	13
Zipfel v. Haliburton, 820 F.2d 1438 (1987)	16
Zoriano Sanchez v. Caribbean Carriers, 552 F.2d 70 (2d Cir.) cert. denied, 434 U.S. 853 (1977)	17
Constitution	
United States Constitution, Art. I, Sec. 8, Clause 3	7
United States Constitution, Art. I, Sec. 8, Clause 18	7
United States Constitution, Art. III, Sec. 2, Clause 3	7
United States Constitution, Art. VI, Sec. 2	7
Miscellaneous	
S. Rep. 1876, 93rd Cong., 1st Sess., Federal Court Jurisdiction Bill	2
The Federalist, No. 80, pp. 497-498 (Lodge ed. 1908)	6
Rules	
United States Maritime Law Association Rules, Rule 36.2	1
Statutes	
37 Stat. 1658, Salvage (1910)	3
51 Stat. 233, Ocean Bills of Lading (1924)	3
United States Code, Title 9, § 3	13
United States Code, Title 15, §78aa	11
United States Code, Title 28, § 1602 et. seq.	13
United States Code, Title 28, § 1333	8

Table of Authorities

Statutes

	Page
United States Code, Title 28, § 1333(1)	12
United States Code, Title 28, § 1346(b)	11
United States Code, Title 28, § 2283	5, 16, 17
United States Code, Title 33, §§ 1161-65 (1970)	2
United States Code, Title 33, §§ 1251-1376 (1972)	2
United States Code, Title 33, §§ 2001-73	2
United States Code, Title 46, § 688(a)	12
United States Code, Title 46, § 688(b)	12
United States Code, Title 46, §§ 727-31 (1912)	2
United States Code, Title 46, § 740 (1948)	2
United States Code, Title 46, § 742	13
United States Code, Title 46 § 761	12
United States Code, Title 46, § 782	13
United States Code, Title 46, §§ 3300-15 (1936)	2

Textbooks

Benedict, On Admiralty Collision (1910), Doc. No. 3-2	3
6 Benedict, Limitation of Liability (1976) Doc. No. 5-4	3
6 Benedict, Oil Pollution Damages, p. 951 (1969) Doc. No. 6-3	3
6A Benedict, Maritime Liens and Mortgages (1967) Doc. No. 8-3	3

Table of Authorities

Textbooks

	Page
Eliot, J., The Debates in the Several State Conventions on the Adoption of the Federal Constitution (1836) pp. 532, 571	6
Restatement (Second) on Judgments, Sec. 27	17
Singh, International Conventions of Merchant Shipping (2d Ed. (1973))	3

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The Maritime Law Association of the United States (MLA) respectfully submits this brief as Amicus Curiae in support of affirmance, on consent of all parties, pursuant to Rule 36.2.[1]

INTEREST OF AMICUS CURIAE

Applicant, The Maritime Law Association of the United States (MLA), has a strong interest in this case. MLA is

[1]The original letters consenting to submission of this brief have been submitted to the Clerk for filing herewith.

a nationwide bar association founded in 1899. It has a membership of more than 3,700 attorneys, federal judges, law professors, and others interested in maritime law. It is affiliated with the American Bar Association, and is represented in that Association's House of Delegates.

MLA's attorney members represent all maritime interests — shipowners, charterers, cargo owners, shippers, forwarders, port authorities, seamen, longshoremen, passengers, marine insurance underwriters, and other maritime claimants and defendants.

MLA's purposes are stated in the Articles of Association:

> The objects of the Association shall be to advance reforms in the Maritime Law of the United States, to facilitate justice in its administration, to furnish a forum for the discussion and consideration of problems affecting the Maritime Law and its administration, and to act with foreign and other associations in efforts to bring about a greater harmony in the shipping laws, regulations and practices in different nations.

In furtherance of these objectives, MLA has sponsored much federal maritime legislation.[2]

MLA assists in maritime projects undertaken by agencies of the United Nations, and works closely with the International Maritime Organization (IMO).

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[2]46 U.S.C. §§ 727-31, Salvage Act (1912); 46 U.S.C. §§ 3300-15, Carriage of Goods by Sea Act (1936); 46 U.S.C. § 740, Admiralty Extension Act (1948); 33 U.S.C. §§ 1161-65, Water Qualtiy Improvement Act (1970); 33 U.S.C. §§ 1251-1376, Water Pollution Control Act (1972); S. 1876, 93rd Cong., 1st Ses, Federal Court Jurisdiction Bill; 33 U.S.C. §§ 2001-73, Inland Navigation Rules.

From time to time, MLA recommended improvements in the former General Admiralty Rules of the Supreme Court, and assisted the Court's Advisory Committee on Admiralty Rules in unification of the General Admiralty Rules and the Federal Rules of Civil Procedure. John McHose, Counsel of Record, was a member of that Advisory Committee.

MLA is one of some 45 national maritime law associations constituting the Comite Maritime International[3], seeking *international* uniformity in maritime law through international conventions.[4]

Uniformity in maritime law, both national and international, prompted MLA adoption, in 1975, of a Resolution which states:

> RESOLVED, that the Maritime Law Association of the United States considers it of the utmost importance and in the public interest that maritime law be uniform to the maximum extent possible throughout the United States.

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[3]These now include Argentina, Australia and New Zealand, Belgium, Brazil, Bulgaria, Canada, Chile, China, Colombia, Costa Rica, Czechoslovakia, Denmark, Egypt, Finland, France, Federal Republic of Germany (West Germany), Greece, Iceland, India, Indonesia, Ireland, Israel, Italy, Japan, Korea, Mexico, Morocco, The Netherlands, Nigeria, Norway, Panama, Philippines, Poland, Portugal, Spain, Sweden, Switzerland, Turkey, United Kingdom, United States, Uruguay, Union of Soviet Socialist Republics, Venezuela, and Yugoslavia.

[4]37 Stat. 1658, Salvage (1910); 51 Stat. 233, Ocean Bills of Lading (1924); Benedict on Admiralty Collision (1910), Doc. No. 3-2. 6 Benedict, Limitation of Liability (1976), Doc. No. 5-4. Singh, International Conventions of Merchant Shipping (2d Edition (1973)). Maritime Liens and Mortgages (1967), 6A Benedict Doc. No. 8-3. 6 Benedict 951, Oil Pollution Damages (1969), Doc. No. 6-3.

A substantially identical resolution was adopted by the American Bar Association in 1976.

In 1986 MLA reaffirmed the policy by the following Resolution:

> Now, therefore, this Association reaffirms its support of the importance of maintaining national uniformity in maritime law and approves action, subject to the By-Laws, to express such support, including filing amicus briefs and supporting proposed legislation or other action which favors uniformity in maritime law, and opposing proposed legislation or other action which impairs uniformity in maritime law.

MLA has a Standing Committee on Uniformity of U.S. Maritime Law.

In furtherance of the uniformity policy, MLA has filed amicus briefs in a number of cases, including three accepted by this Court.[5]

It is MLA policy to file briefs as amicus curiae only when an important issue of maritime law is involved and when the court's decision may substantially affect uniformity.

SUMMARY OF ARGUMENT

Congress has granted State courts only limited jurisdiction to hear maritime cases. Maritime cases are governed by Federal law which applies uniformly in Federal and State courts alike.

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[5] *Askew v. American Waterways Operators*, 411 U.S. 325 (1973); *Ray v. Atlantic Richfield Co.*, 435 U.S. 151 (1978); *Air Logistics, Inc. v. Tallentire*, No. 85-202, 106 S.Ct. 2485 (1986).

The Federal doctrine of *forum non conveniens* is a door-closing measure which must be enforced by State courts in maritime cases regardless whether an analogous door-closing measure exists under State law.

The Federal district court has decided on the ground of *forum non conveniens* that this maritime suit should not be tried in the United States. The Federal court's determination of that issue, regardless whether characterized as procedural or substantive, is *res judicata*.

A later effort by the plaintiff to bring the same suit in a Texas State court threatened to nullify the decision of the Federal court which was, therefore, authorized by 28 U.S.C. Sec. 2283 to "protect and effectuate its judgment" by enjoining the State court proceedings.

ARGUMENT

I

THE DECISION SHOULD BE BASED ON THE PRINCIPLE OF UNIFORMITY OF MARITIME LAW.

A. The Founding Fathers Agreed Maritime Law, Controlled by the Federal Government and Supreme Court, Should be Uniform in all Courts in the United States.

At the Virginia Convention in 1787, Governor Randolph stated:

> "*Cases of admiralty and maritime jurisdiction* cannot, with propriety, be vested in particular state courts. As our national tranquility and reputation, and intercourse with foreign nations may be affected by admiralty decision; as they ought therefore, to be uniform; and as there can be no uniformity if there be

thirteen distinct, independent jurisdictions, — this jurisdiction ought to be in the federal judiciary."[7]

Alexander Hamilton of New York wrote:

> The most bigoted idolizers of state authority have not thus far shown a disposition to deny the national judiciary the cognizances of maritime causes. These so generally depend on the law of nations, and so commonly affect the rights of foreigners, that they fall within the considerations which are relative to the public peace.[8]

James Madison stated at the Virginia Convention:

> "There are strong reasons why there should be a Supreme Court to decide [certain] disputes. If, in any case, uniformity be necessary, it must be in the exposition of treaties. The establishment of one revisionary superintending power can alone secure such uniformity. The same principles hold with respect to cases affecting ambassadors and foreign ministers. To the same principles may also be referred their cognizance in admiralty and maritime cases. As our intercourse with foreign nations will be affected by decisions of this kind, they ought to be uniform. This can be done only by giving the judiciary exclusive jurisdiction."[9]

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[7]J. Eliot, The Debates in the Several State Conventions on the adoption of the Federal Constitution (1836) 571. (Emphasis in original quote).

[8]The Federalist, No, 80, 497-498 (Lodge ed. 1908). This was quoted in *Romero v. International Terminal Operating Co.*, 358 U.S. 354, 361 n.8 (1959).

[9]J. Eliot, The Debates (*supra*) 532.

B. The Intent to Maintain National Uniformity was Confirmed in the Constitution.

Article I, Section 8, Clause 3 (The Commerce Clause) states:

> The Congress shall have power • • • to regulate commerce with foreign nations, and among the several states.

Article I, Section 8, Clause 18 (The Necessary and Proper Clause) states:

> The Congress shall have power • • • To make all laws which shall be necessary and proper for carrying into Execution the foregoing Powers • • •.

Article III, Section 2, Clause 3 (The Admiralty Clause) states:

> The judicial power shall extend • • • To all cases of admiralty and maritime jurisdiction.

Article VI, Section 2, (The Supremacy Clause) states:

> This Constitution, and the Laws of the United States which shall be made in pursuance thereof; • • • shall be the Supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

The Admiralty and Necessary and Proper Clauses, and decisions interpreting them, confirm that, except in areas of purely local concern, the general maritime law is to apply in all admiralty and maritime cases in the United States. The Supremacy Clause requires state courts to follow established maritime law.

C. Although Congress has Delegated a Portion of Admiralty Law Jurisdiction to the State Courts, They are Required to Apply Federal Admiralty Law.

Congress, in implementing provisions by statute, recognized from the first that it might not be convenient to bring every maritime case to one of the few federal courts, delegated to the state courts an alternative limited jurisdiction to hear ordinary *in personam* maritime causes of action not involving the special procedures and remedies of admiralty, such as arrests, perfection of liens, etc. This was done by the "saving to suitors" clause in the Judiciary Act of 1789, now reworded in 28 U.S.C. 1333.

In 1987, the Supreme Court stated in the *Lottawanna*, 88 U.S. 558:

> "One thing, however is unquestionable: The Constitution must have referred to a system of law coextensive with, and operating uniformally in, the whole country. It certainly could not have been the intent to place the rules and limits of maritime law under the disposal and regulation of the several states * * *." (p. 575)

In 1920, the Court in *Knickerbocker Ice Co. v. Stewart*, 253 U.S. 149, referring to the approval and adoption of the general maritime law as part of the laws of the United States, held:

> "To preserve adequate harmony and appropriate uniform rules relating to maritime matters and bring them within control of the Federal Government was the fundamental purpose * * *." (p. 160)

In *Panama Railroad Co. v. Johnson*, 264 U.S. 375 (1924), the Court pointed out at page 386 in discussing "admiralty and maritime jurisdiction":

> "The framers of the Constitution were familiar with that system (admiralty) and proceeded with it in mind. Their purpose was not to strike down or abrogate the system, but to place the entire subject — its substantive as well as its procedural features — under national control * * *"

In many Maritime cases, procedure is as important as substantive law.

D. Calling the Dismissal "Procedural" Does not Resolve the Case.

To say that the principle of uniformity ought to be limited to "substance" and denied to "procedure" (contrary to *Panama Railroad Co. v. Johnson*) does not resolve the question here.

This Court has rejected the use of the epithet "procedural" as a means of deciding cases. In *Guaranty Trust Co. v. York*, 326 U.S. 99 (1945), the Court clearly recognized the infirmity of such analysis:

> Matters of "substance" and matters of "procedure" are much talked about in the books as though they defined a great divide cutting across the whole domain of law. But, of course, "substance" and "procedure" are the same key words to very different problems. Neither "substance" nor "procedure" represents the same variance. Each implies different variables depending upon the particular problem for which it is used. (p. 108)

One of the cases with which the court illustrated the point was *Garrett v. Moore-McCormack Co.*, 317 U.S. 239, 248-49 (1942), a maritime case which had come up through the state courts. The Court held that a burden of proof, however it might be thought to be procedural, had

such consequences that the federal rule must be used by the state court.

In *Hanna v. Plumer*, 380 U.S. 460 (1965), the Court reaffirmed its view that the dichotomy between "substance" and "procedure" was not adequate for deciding cases, while making clear that the criterion of "outcome-determination" is also not a universal rule. In both *Guaranty Trust* and *Hanna*, the Court stressed the discouragement of forum-shopping as a ground for looking beyond the common epithets in deciding whether federal or state standards should be applied. Other courts of appeals have applied the principle of *Guaranty Trust* and *Hanna* in declining to treat *forum non conveniens* as a conclusion merely "procedural" or unworthy of the dignity of *res judicata*. *E.g., In re Air Crash Disaster Near New Orleans, La.*, 821 F.2d 1147, 1156-57, 1987 A.M.C. 2735, 2746-47 (5th Cir. 1987); *Pastewka v. Texaco, Inc.*, 565 F.2d 851, 854, 1979 A.M.C. 190, 194 (3d Cir. 1977).

Guaranty Trust and *Hanna* were cases involving the interplay of federal and state legislative jurisdiction as affecting actions in the federal courts, and they arose in a context very closely related to the situation here, which involves the effects of the resulting judgments rather than the laws and rules to be applied in reaching them. The *Guaranty Trust* and *Hanna* cases indicate that the disparaging adjective "procedural" should not be used to decide the quality of a judgment for the purpose of applying it as *res judicata*.

The original judgment of the district court dismissing on the grounds of *forum non conveniens* did not, after all, have the mere effect of a sanction for the violation of a court rule, allowing the plaintiff to refile in compliance with the rule or in another court under different rules. Although granted for different reasons and on a different

showing, the judgment had the same effect as though the Petitioner's case had been dismissed for lack of jurisdiction. And, because the district court found that the suit was inappropriate in the United States, the effect was intended to be exactly as though there had been a leak of adequate contacts of the defendant with the United States under the standard of *International Shoe Co. v. Washington*, 326 U.S. 310 (1945). A judgment on that ground would be *res judicata*. *American Surety Co. v. Baldwin*, 287 U.S. 156, 166 (1932) ("The principles of *res judicata* apply to questions of jurisdiction as well as to other issues.") *Baldwin v. Iowa State Traveling Men's Assn.*, 283 U.S. 522 (1931) (personal jurisdiction).

If a decision should be made that judgments so far-reaching as the judgment in this case are unworthy to be treated as "judgments" under the Act, and that maritime plaintiffs should be free to pursue the defendants a second time in the United States despite the express and deliberate decision of a federal admiralty court, affirmed on appeal, that their claims do not belong in this country, such a decision should be made by thoughtful analysis rather than pejorative epithet.

II

UNIFORMITY REQUIRES THAT IN MARITIME CASES SOME FEDERAL DOOR-CLOSING MEASURES BIND THE STATE COURTS LIKE THE ONE INVOLVED HERE.

Although the Federal Government has limited powers, when it exercises those powers it is authorized under the Supremacy Clause to bind the States, and may give exclusive jurisdiction to Federal courts in such matters. *See, e.g.*, 15 U.S.C. § 78aa [Securities Exchange Act cases], 28 U.S.C. § 1346(b) [tort claims against the

United States]. This Constitutional principle has been applied on many occasions in the form of Federal door-closing measures which bind State courts. This is especially true in admiralty cases where Congress has consistently pursued uniformity and given Federal courts "exclusive" jurisdiction, except for delegating a limited jurisdiction to State courts by "saving to suitors in all cases all other remedies to which they are otherwise entitled." 28 U.S.C. § 1333(1).

A. Maritime Remedies.

Among the earliest door-closing measures was the decision that jurisdiction *in rem*, to enforce maritime liens against ships, lay exclusively in the Federal admiralty courts. The *Moses Taylor*, 71 U.S. (4 Wall.) 411 (1867). The *Hine v. Trevor*, 71 U.S. (4 Wall.) 555 (1967).

Similarly, Federal and State courts in maritime cases are closed by the Jones Act and the Death on the High Seas Act to claimants who might be entitled under State law to remedies for wrongful death, but who are not given standing to sue in those Acts. 46 U.S.C. §§ 688(a), 761; *Lindgren v. United States*, 281 U.S. 38 (1930); *Gillespie v. United States Steel Corp.*, 379 U.S. 148 (1964). Most recently, in an explicit door-closing statute, Congress barred both State and Federal courts from hearing maritime personal injury and death suits by certain aliens in the foreign offshore oil industry. 46 U.S.C. § 688(b).

B. Foreign Forum Clauses.

In an admiralty case, this Court described the criteria for enforcing a foreign forum clause, thereby closing all courts here to certain disputes arising under international maritime contracts. *Bremen v. Zapata Off-Shore Co.*, 407 U.S. 1 (1972). This court has likewise confirmed the

power of the Federal Government in the conduct of foreign affairs, to cut off access to both Federal and State courts, and to require private parties with claims against Iran to proceed before an international tribunal. *Dames & Moore v. Regan*, 453 U.S. 654 (1981).

C. Arbitration.

Congress has mandated that all American courts must stay their proceedings whenever a party invokes a valid arbitration clause in a suit involving maritime, international, or interstate commerce, regardless whether the underlying claims arise under Federal or State law. 9 U.S.C. § 3; *Southland v. Keating*, 465 U.S. 1 (1984); *Mitsubishi Motors Corp. v. Soler Chrysler Plymouth, Inc.*, 473 U.S. 614 (1985).

D. Sovereign Immunity.

The sovereign immunity of the Federal Government in tort was first waived just for maritime cases. 46 U.S.C. §§ 742, 782 [1920 suits in Admiralty Act, 1925 Public Vessels Act]. Even today only the Federal Courts and not the State Courts, are permitted to hear such cases. *Guidry v. Durkin*, 834 F.2d 1465, 1473 (9th Cir. 1987) ["in the interests of national uniformity"].

The seminal decision closing our courts to certain suits against foreign sovereigns was written by Chief Justice Marshall in an admiralty case. *The Schooner Exchange v. McFaddon*, 11 U.S. (7 Cranch.) 116 (1812). Many years later, Congress codified that, with some exceptions, no Federal or State court could entertain such suits. 28 U.S.C. § 1602 *et seq.*

E. Acts of State Doctrine.

This court has ruled in a case involving ocean bills of lading that, as a matter of Federal common law, our courts are generally closed to claims which call into question the acts of foreign sovereigns in their own territories. *Banco Nacional de Cuba v. Sabbatino,* 376 U.S. 398, 427 (1964) ["binding on federal and state courts alike"].

F. Insufficient Contacts With the Forum.

In the context of the due process clause, this Court recently ruled that a products liability suit against a foreign manufacturer, with no more contact than the expectation that his product would enter the stream of commerce, should not be heard by a Federal or State court. *Asahi Metal Indus. Co. v. Superior Court,* 107 S.Ct. 1026 (1987).

G. Forum Non Conveniens.

The doctrine of *forum non conveniens* is another type of door-closing measure first enunciated by this Court in an admiralty suit. *Canada Melting Co. v. Paterson,* 285 U.S. 413 (1932). The question here is not when State courts may close their own doors to Federal claims, *Missouri v. Mayfield,* 340 U.S. 1 (1950), but rather when State courts *must* close their doors to maritime suits.

In *Gulf Oil Corp. v. Gilbert,* 330 U.S. 501 (1947), this Court identified the factors which were relevant to application of *forum non conveniens.* Weight given these factors may vary from court to court depending on such local considerations as proximity of the forum to the events or witnesses, docket congestion, and a predilection for concentrating on local affairs. *Parsons v. Chesapeake & Ohio R.R. Co.,* 375 U.S. 71 (1963).

In *Piper Aircraft Co. v. Reyno,* 454 U.S. 235 (1981), the court held that if a court could not dismiss a case on the ground of *forum non conveniens*:

> The American courts which are already extremely attractive to foreign plaintiffs, would become even more attractive. The flow of litigation into the United States would increase and further congest already crowded courts.

Id. at 252.

It would be an abuse of discretion for *any* district court to decline to enforce the doctrine of *Gulf Oil* and *Piper v. Reyno* when applicable. These cases mandate that some cases simply not be tried in the United States at all if an adequate forum is available abroad.

In *Testa v. Katt,* 330 U.S. 386 (1947) this Court held that State courts which lacked jurisdiction under State law to hear Federal claims could be required by Federal law to hear them nonetheless. The converse is equally true. In a maritime case where under *Gulf Oil* and *Piper v. Reyno* no district court could hear the case, a State court likewise should be required to apply the doctrine and dismiss.

The existence of a State door-opening statute does not alter the result. A State Legislature lacks power to keep State courts open to hear claims for which they have been deprived of jurisdiction by Federal law. *See* the *Moses Taylor, supra;* the *Hine v. Trevor, supra, Lindgren v. United States, supra,* 281 U.S. at 47; *Southland v. Keating, supra,* 465 U.S. at 15-16. In enacting the "saving to suitors" clause, Congress granted State courts "partially concurrent" jurisdiction to hear some admiralty suits. *Knickerbocker Ice Co. v. Stewart,* 253 U.S. 149, 161 (1920). But, Congress quite clearly never intended that State

courts should exercise greater jurisdiction in maritime cases than Federal courts.

III

CONFLICT AND UNCERTAINTY CONCERNING CONDITIONAL DISMISSAL ON THE GROUND OF FORUM NON CONVENIENS IN MARITIME CASES IN UNITED STATES COURTS SHOULD BE RESOLVED.

Presently conflict and uncertainty as respects application of the Lauritsen-Romero-Rhoditis[10] principles in maritime cases in United States courts is demonstrated by a number of cases. They include the case at bar, *Zipfel v. Haliburton*, 820 F.2d 1438 (1987), see also *sub nom., Sherrill v. Brinkerhoff Maritime Drilling*, 615 F.Supp. 1021, and *Kassapas v. Arkon Shipping Agency*, 485 So.2d 565 (LA. Ct. App. 5th Cir.) Writ denied, 488 So.2d 203 (LA. 1986). The *Kassapas* case is discussed at length by Judge Gee in the opinion in the case at bar. He correctly calls Kassapas "plainly wrong". This analysis is sound.

IV

A FEDERAL COURT IS AUTHORIZED TO ENJOIN STATE COURT LITIGATION OF A MARITIME CAUSE OF ACTION CONDITIONALLY DISMISSED IN THE FEDERAL COURT ON THE GROUND OF FORUM NON CONVENIENS.

This is not a matter where a district court has tried to impose its interpretation of Federal law on a State court by way of injunction in a collateral suit. Such efforts have been condemned by the Congress and by this Court. 28

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[10]345 U.S. 571; 358 U.S. 373; 398 U.S. 306.

U.S. 2283; *See Atlantic C.L.R.R. v. Brotherhood of Locomotive Engineers*, 398 U.S. 281 (1970). However, where there has been an earlier suit in the Federal court the Anti-Injunction Statute expressly authorizes the Federal court to restrain later State court proceedings if "necessary • • • to protect or effectuate its judgment." 28 U.S.C. § 2283.

It may not be necessary to protect such a judgment when a dismissal on the ground of *forum non conveniens* is based on local considerations such as docket congestion and proximity of witnesses. *See Parsons v. Chesapeake Ohio R.R. Co., supra.* But here the district court's ruling was that this maritime suit should not be heard in the United States at all. 699 F.2d at 694. The ruling was not based on local considerations; nor was it appealed.

To be sure the ruling in the case at bar was not a decision on the ultimate "merits" of plaintiffs' claim. However, there are other types of rulings which are suitable for issue preclusion treatment. *See Restatement (Second) on Judgments*, § 27; *Allen v. McCurry*, 449 U.S. 90 (1980) [State court ruling on suppression motion in criminal trial binding on a Federal court in subsequent civil rights proceedings]; *Pastewka v. Texaco*, 565 F.2d 851 (3d Cir. 1977) [Federal court dismissal of an admiralty suit on grounds of *forum non conveniens* binding on second Federal court]; *Zoriano Sanchez v. Caribbean Carriers*, 552 F.2d 70 (2d Cir.), *cert. denied*, 434 U.S. 853 (1977) [same]; *but cf. Mizokami Bros. v. Mobay Chemical Corp.*, 660 F.2d 712 (8th Cir. 1981) [dictum — Federal court dismissal of a diversity suit on grounds of *forum non conveniens* not binding on second Federal court].

The judgment of the Federal court below, that this maritime suit should not be heard in the United States, would have been nullified if the Texas State court pro-

ceedings had gone forward. In pursuit of uniformity, the district court therefore took both authorized and proper action to protect and effectuate its judgment by enjoining the State court proceedings.

It is submitted that, after a Federal Court applying established maritime law has dismissed a maritime case on the ground of *forum non conveniens*, holding that the case should not be brought in the United States, no State court should hear the same case.

Maritime law must be applied to maritime cases and govern their outcome. If cases such as this can be filed in State courts and permitted to be governed by State law, which may differ from federal maritime law, uniformity of maritime law in the United States is destroyed.

CONCLUSION

The judgment of the Court of Appeals should be affirmed.

Dated: February 19, 1988.

Respectfully submitted,

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PROOF OF SERVICE BY MAIL

I am a citizen of the United States and a resident of the City and County of Los Angeles; I am over the age of eighteen years and not a party to the within action; my business address is: 1706 Maple Avenue, Los Angeles, California.

On February 19, 1988, I served the within Amicus Curiae in re: "Chick Kam Choo vs. Exxon Corporation" in the United States Supreme Court, October Term 1987, No. 87-505;

On the Parties in said action, by placing Three copies thereof enclosed in a sealed envelope with postage fully prepaid, in the United States post office mail box at Los Angeles, California, addressed as follows:

James Patrick Cooney
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Counsel of Record for Petitioners

All Parties required to be served have been served.

I certify (or declare), under penalty of perjury, that the foregoing is true and correct.

Executed on February 19, 1988, at Los Angeles, California

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